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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/447,351	11/22/1999	RONALD M. HUBERMAN	97573-U.S.	3718
23553	7590	03/24/2004	EXAMINER	
MARKS & CLERK P.O. BOX 957 STATION B OTTAWA, ON K1P 5S7 CANADA			NGUYEN, VAN KIM T	
		ART UNIT	PAPER NUMBER	
		2661	13	
DATE MAILED: 03/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/447,351	HUBERMAN ET AL.
Examiner	Art Unit	
Van Kim T. Nguyen	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 February 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) i-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1,2,10-16,18,23,27 and 29-31 is/are rejected.
7) Claim(s) 3-9,17,19-22,24-26 and 28 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. _____.
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

This Office Action is responsive to communications filed on February 24, 2004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-16, 18, and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Milito (US 5,596,576).

Regarding claims 10-11, 15-16 and 30, Milito discloses a credit method and system for use in sharing of resources in a telecommunication system (col. 1: lines 10-59) comprising: periodically assigning credit tokens to a bucket, blocking a call (deny access) to the dialed number (trunk, 3-port conference circuits and UTP) if there are no current credit tokens assigned to the bucket, and permitting the call (permit access) if there is at least one token (cols. 3-11, esp. col. 3, lines 45-62).

Though Milito does not explicitly state the credit tokens method is used for detecting a mass calling event, but as it is well known in the art, a mass calling event occurs when a calling volume exceeds customer answering capability, or in another word, any calls in excess of customer capability go unanswered and cannot therefore be billed by telephone service provider are considered a form of mass calling event. Thus, it is inherent when there are no current credit tokens assigned to the bucket, a call would be blocked, indicating the occurrence of a mass calling event.

Regarding claims 12 and 31, Milito also discloses a credit overflow threshold is provided whereby no new credit tokens are assigned to the bucket when the threshold has been reached (col. 7: lines 45-58).

Regarding claim 13-14, 18, and 29, Milito also discloses a credit bucket mechanism to set an interval for issuing credit tokens to the bucket and a detector to determine if any credits are in the bucket (cols. 8-9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ram et al (US 6,038,309), in view of Margulis et al (US 6,243,449).

Regarding claims 1-2, 23 and 27, as shown in Figures 1-7, Ram discloses a call server (32, 33, 34, 36; column 5: lines 13-39, and column 8: lines 34-48) for use in association with a packet network (24) which transports calls between end systems (22) in a public switched telephone network (20). The packet network having interworking functionality to bi-directionally convert TDM signals and packets (cols. 6-7, esp. col. 6: lines 18-29), the call server having means to centrally control functionality within the packet network and TDM switches within the PSTN (col. 8: lines 34-48).

However, Ram does not call for means to detect a mass calling event in real time.

As shown in Figures 1-3, Margulis teaches means for detecting a mass calling event in real time (cols. 1-9).

Since it is highly desirable to be able to monitor data throughput in a multi-media communication network, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Margulis' method of detecting and controlling mass calling event in Ram's system for externally controlling call processing in order to avoid switch congestion and optimize the use of system's resources.

Allowable Subject Matter

Claims 3-9, 17, 19-22, 24-26, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on 703-305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

vkn



DOUGLAS OLMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600